

programming systems, technology, or products. Upon an appropriate showing, the Commission shall grant any such waiver request within 90 days of any application filed under this subsection, and such waiver shall be effective for all service providers and products in that category and for all providers of services and products.

**“(d) AVOIDANCE OF REDUNDANT REGULATIONS.—**

**“(1) COMMERCIAL AVAILABILITY DETERMINATIONS.—**Determinations made or regulations prescribed by the Commission with respect to commercial availability to consumers of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, before the date of enactment of the Telecommunications Act of 1996 shall fulfill the requirements of this section.

**“(2) REGULATIONS.—**Nothing in this section affects section 64.702(e) of the Commission’s regulations (47 C.F.R. 64.702(e)) or other Commission regulations governing interconnection and competitive provision of customer premises equipment used in connection with basic common carrier communications services.

**“(e) SUNSET.—**The regulations adopted under this section shall cease to apply when the Commission determines that—

**“(1) the market for the multichannel video programming distributors is fully competitive;**

**“(2) the market for converter boxes, and interactive communications equipment, used in conjunction with that service is fully competitive; and**

**“(3) elimination of the regulations would promote competition and the public interest.**

**“(f) COMMISSION’S AUTHORITY.—**Nothing in this section shall be construed as expanding or limiting any authority that the Commission may have under law in effect before the date of enactment of the Telecommunications Act of 1996.”.

**SEC. 305. VIDEO PROGRAMMING ACCESSIBILITY.**

Title VII is amended by inserting after section 712 (47 U.S.C. 612) the following new section:

3 613.

**“SEC. 713. VIDEO PROGRAMMING ACCESSIBILITY.**

**“(a) COMMISSION INQUIRY.—**Within 180 days after the date of enactment of the Telecommunications Act of 1996, the Federal Communications Commission shall complete an inquiry to ascertain the level at which video programming is closed captioned. Such inquiry shall examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.

s.

tions.

**“(b) ACCOUNTABILITY CRITERIA.—**Within 18 months after such date of enactment, the Commission shall prescribe such regulations as are necessary to implement this section. Such regulations shall ensure that—

**“(1) video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions, except as provided in subsection (d); and**

“(2) video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions, except as provided in subsection (d).

“(c) DEADLINES FOR CAPTIONING.—Such regulations shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming.

“(d) EXEMPTIONS.—Notwithstanding subsection (b)—

“(1) the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming;

“(2) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with contracts in effect on the date of enactment of the Telecommunications Act of 1996, except that nothing in this section shall be construed to relieve a video programming provider of its obligations to provide services required by Federal law; and

“(3) a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would result in an undue burden.

“(e) UNDUE BURDEN.—The term ‘undue burden’ means significant difficulty or expense. In determining whether the closed captions necessary to comply with the requirements of this paragraph would result in an undue economic burden, the factors to be considered include—

“(1) the nature and cost of the closed captions for the programming;

“(2) the impact on the operation of the provider or program owner;

“(3) the financial resources of the provider or program owner; and

“(4) the type of operations of the provider or program owner.

“(f) VIDEO DESCRIPTIONS INQUIRY.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall commence an inquiry to examine the use of video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments, and report to Congress on its findings. The Commission’s report shall assess appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate.

Reports.

“(g) VIDEO DESCRIPTION.—For purposes of this section, ‘video description’ means the insertion of audio narrated descriptions of a television program’s key visual elements into natural pauses between the program’s dialogue.

“(h) PRIVATE RIGHTS OF ACTIONS PROHIBITED.—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation there-

under. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.”.

## **TITLE IV—REGULATORY REFORM**

### **SEC. 401. REGULATORY FORBEARANCE.**

Title I is amended by inserting after section 9 (47 U.S.C. 159) the following new section:

USC 160.

### **“SEC. 10. COMPETITION IN PROVISION OF TELECOMMUNICATIONS SERVICE.**

“(a) **REGULATORY FLEXIBILITY.**—Notwithstanding section 332(c)(1)(A) of this Act, the Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services, in any or some of its or their geographic markets, if the Commission determines that—

“(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

“(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

“(3) forbearance from applying such provision or regulation is consistent with the public interest.

“(b) **COMPETITIVE EFFECT TO BE WEIGHED.**—In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

“(c) **PETITION FOR FORBEARANCE.**—Any telecommunications carrier, or class of telecommunications carriers, may submit a petition to the Commission requesting that the Commission exercise the authority granted under this section with respect to that carrier or those carriers, or any service offered by that carrier or carriers. Any such petition shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forbearance under subsection (a) within one year after the Commission receives it, unless the one-year period is extended by the Commission. The Commission may extend the initial one-year period by an additional 90 days if the Commission finds that an extension is necessary to meet the requirements of subsection (a). The Commission may grant or deny a petition in whole or in part and shall explain its decision in writing.

“(d) **LIMITATION.**—Except as provided in section 251(f), the Commission may not forbear from applying the requirements of section 251(c) or 271 under subsection (a) of this section until it determines that those requirements have been fully implemented.

“(e) **STATE ENFORCEMENT AFTER COMMISSION FORBEARANCE.**—A State commission may not continue to apply or enforce any

provision of this Act that the Commission has determined to forbear from applying under subsection (a).”.

**SEC. 402. BIENNIAL REVIEW OF REGULATIONS; REGULATORY RELIEF.**

(a) **BIENNIAL REVIEW.**—Title I is amended by inserting after section 10 (as added by section 401) the following new section:

**“SEC. 11. REGULATORY REFORM.**

47 USC 161.

“(a) **BIENNIAL REVIEW OF REGULATIONS.**—In every even-numbered year (beginning with 1998), the Commission—

“(1) shall review all regulations issued under this Act in effect at the time of the review that apply to the operations or activities of any provider of telecommunications service; and

“(2) shall determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service.

“(b) **EFFECT OF DETERMINATION.**—The Commission shall repeal or modify any regulation it determines to be no longer necessary in the public interest.”.

(b) **REGULATORY RELIEF.**—

(1) **STREAMLINED PROCEDURES FOR CHANGES IN CHARGES, CLASSIFICATIONS, REGULATIONS, OR PRACTICES.**—

(A) Section 204(a) (47 U.S.C. 204(a)) is amended—

(i) by striking “12 months” the first place it appears in paragraph (2)(A) and inserting “5 months”;

(ii) by striking “effective,” and all that follows in paragraph (2)(A) and inserting “effective.”; and

(iii) by adding at the end thereof the following:

“(3) A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period, as is appropriate.”.

(B) Section 208(b) (47 U.S.C. 208(b)) is amended—

(i) by striking “12 months” the first place it appears in paragraph (1) and inserting “5 months”; and

(ii) by striking “filed,” and all that follows in paragraph (1) and inserting “filed.”.

(2) **EXTENSIONS OF LINES UNDER SECTION 214; ARMIS REPORTS.**—The Commission shall permit any common carrier—

47 USC 214 note.

(A) to be exempt from the requirements of section 214 of the Communications Act of 1934 for the extension of any line; and

(B) to file cost allocation manuals and ARMIS reports annually, to the extent such carrier is required to file such manuals or reports.

(3) **FORBEARANCE AUTHORITY NOT LIMITED.**—Nothing in this subsection shall be construed to limit the authority of the Commission to waive, modify, or forbear from applying any of the requirements to which reference is made in paragraph (1) under any other provision of this Act or other law.

47 USC 204 note.

(4) **EFFECTIVE DATE OF AMENDMENTS.**—The amendments made by paragraph (1) of this subsection shall apply with respect to any charge, classification, regulation, or practice

47 USC 204 note.

filed on or after one year after the date of enactment of this Act.

effective date.

(c) **CLASSIFICATION OF CARRIERS.**—In classifying carriers according to section 32.11 of its regulations (47 C.F.R. 32.11) and in establishing reporting requirements pursuant to part 43 of its regulations (47 C.F.R. part 43) and section 64.903 of its regulations (47 C.F.R. 64.903), the Commission shall adjust the revenue requirements to account for inflation as of the release date of the Commission's Report and Order in CC Docket No. 91-141, and annually thereafter. This subsection shall take effect on the date of enactment of this Act.

**SEC. 403. ELIMINATION OF UNNECESSARY COMMISSION REGULATIONS AND FUNCTIONS.**

(a) **MODIFICATION OF AMATEUR RADIO EXAMINATION PROCEDURES.**—Section 4(f)(4) (47 U.S.C. 154(f)(4)) is amended—

(1) in subparagraph (A)—

(A) by inserting “or administering” after “for purposes of preparing”;

(B) by inserting “of” after “than the class”; and

(C) by inserting “or administered” after “for which the examination is being prepared”;

(2) by striking subparagraph (B);

(3) in subparagraph (H), by striking “(A), (B), and (C)” and inserting “(A) and (B)”;

(4) in subparagraph (J)—

(A) by striking “or (B)”;

(B) by striking the last sentence; and

(5) by redesignating subparagraphs (C) through (J) as subparagraphs (B) through (I), respectively.

(b) **AUTHORITY TO DESIGNATE ENTITIES TO INSPECT.**—Section 4(f)(3) (47 U.S.C. 154(f)(3)) is amended by inserting before the period at the end the following: “: and *Provided further*, That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph”.

(c) **EXPEDITING INSTRUCTIONAL TELEVISION FIXED SERVICE PROCESSING.**—Section 5(c)(1) (47 U.S.C. 155(c)(1)) is amended by striking the last sentence and inserting the following: “Except for cases involving the authorization of service in the instructional television fixed service, or as otherwise provided in this Act, nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in paragraph (2) or (3) of section 556(b) of title 5, United States Code, of any hearing to which such section applies.”

(d) **REPEAL SETTING OF DEPRECIATION RATES.**—The first sentence of section 220(b) (47 U.S.C. 220(b)) is amended by striking “shall prescribe for such carriers” and inserting “may prescribe, for such carriers as it determines to be appropriate,”.

(e) **USE OF INDEPENDENT AUDITORS.**—Section 220(c) (47 U.S.C. 220(c)) is amended by adding at the end thereof the following: “The Commission may obtain the services of any person licensed to provide public accounting services under the law of any State to assist with, or conduct, audits under this section. While so employed or engaged in conducting an audit for the Commission under this section, any such person shall have the powers granted the Commission under this subsection and shall be subject to sub-

section (f) in the same manner as if that person were an employee of the Commission.”

(f) DELEGATION OF EQUIPMENT TESTING AND CERTIFICATION TO PRIVATE LABORATORIES.—Section 302 (47 U.S.C. 302) is amended 47 USC 302a. by adding at the end the following:

“(e) The Commission may—

“(1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;

“(2) accept as prima facie evidence of such compliance the certification by any such organization; and

“(3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.”

(g) MAKING LICENSE MODIFICATION UNIFORM.—Section 303(f) (47 U.S.C. 303(f)) is amended by striking “unless, after a public hearing,” and inserting “unless”.

(h) ELIMINATE FCC JURISDICTION OVER GOVERNMENT-OWNED SHIP RADIO STATIONS.—

(1) Section 305 (47 U.S.C. 305) is amended by striking subsection (b) and redesignating subsections (c) and (d) as (b) and (c), respectively.

(2) Section 382(2) (47 U.S.C. 382(2)) is amended by striking “except a vessel of the United States Maritime Administration, the Inland and Coastwise Waterways Service, or the Panama Canal Company,”.

(i) PERMIT OPERATION OF DOMESTIC SHIP AND AIRCRAFT RADIOS WITHOUT LICENSE.—Section 307(e) (47 U.S.C. 307(e)) is amended to read as follows:

“(e)(1) Notwithstanding any license requirement established in this Act, if the Commission determines that such authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in the following radio services: (A) the citizens band radio service; (B) the radio control service; (C) the aviation radio service for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station; and (D) the maritime radio service for ship stations navigated on domestic voyages when such ships are not otherwise required to carry a radio station.

“(2) Any radio station operator who is authorized by the Commission to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

“(3) For purposes of this subsection, the terms ‘citizens band radio service’, ‘radio control service’, ‘aircraft station’ and ‘ship station’ shall have the meanings given them by the Commission by rule.”

(j) EXPEDITED LICENSING FOR FIXED MICROWAVE SERVICE.—Section 309(b)(2) (47 U.S.C. 309(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (G) as subparagraphs (A) through (F), respectively.

(k) FOREIGN DIRECTORS.—Section 310(b) (47 U.S.C. 310(b)) is amended—

(1) in paragraph (3), by striking “of which any officer or director is an alien or”; and

(2) in paragraph (4), by striking “of which any officer or more than one-fourth of the directors are aliens, or”.

(l) LIMITATION ON SILENT STATION AUTHORIZATIONS.—Section 312 (47 U.S.C. 312) is amended by adding at the end the following:

“(g) If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.”.

7 USC 319.

(m) MODIFICATION OF CONSTRUCTION PERMIT REQUIREMENT.—Section 319(d) is amended by striking the last two sentences and inserting the following: “With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction, except that the Commission may by regulation determine that a permit shall not be required for minor changes in the facilities of authorized broadcast stations. With respect to any other station or class of stations, the Commission shall not waive the requirement for a construction permit unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver.”.

7 USC 360.

(n) CONDUCT OF INSPECTIONS.—Section 362(b) (47 U.S.C. 362(b)) is amended to read as follows:

“(b) Every ship of the United States that is subject to this part shall have the equipment and apparatus prescribed therein inspected at least once each year by the Commission or an entity designated by the Commission. If, after such inspection, the Commission is satisfied that all relevant provisions of this Act and the station license have been complied with, the fact shall be so certified on the station license by the Commission. The Commission shall make such additional inspections at frequent intervals as the Commission determines may be necessary to ensure compliance with the requirements of this Act. The Commission may, upon a finding that the public interest could be served thereby—

“(1) waive the annual inspection required under this section for a period of up to 90 days for the sole purpose of enabling a vessel to complete its voyage and proceed to a port in the United States where an inspection can be held; or

“(2) waive the annual inspection required under this section for a vessel that is in compliance with the radio provisions of the Safety Convention and that is operating solely in waters beyond the jurisdiction of the United States: *Provided*, That such inspection shall be performed within 30 days of such vessel’s return to the United States.”.

(o) INSPECTION BY OTHER ENTITIES.—Section 385 (47 U.S.C. 385) is amended—

(1) by inserting “or an entity designated by the Commission” after “The Commission”; and

(2) by adding at the end thereof the following: “In accordance with such other provisions of law as apply to Government contracts, the Commission may enter into contracts with any person for the purpose of carrying out such inspections and certifying compliance with those requirements, and may, as part of any such contract, allow any such person to accept reimbursement from the license holder for travel and expense costs of any employee conducting an inspection or certification.”.

**TITLE V—OBSCENITY AND VIOLENCE****Subtitle A—Obscene, Harassing, and  
Wrongful Utilization of Telecommuni-  
cations Facilities**

Communications  
Decency Act of  
1996.  
Law enforcement  
and crime.  
Penalties.

**SEC. 501. SHORT TITLE.**

47 USC 609 note.

This title may be cited as the “Communications Decency Act of 1996”.

**SEC. 502. OBSCENE OR HARASSING USE OF TELECOMMUNICATIONS  
FACILITIES UNDER THE COMMUNICATIONS ACT OF 1934.**

Section 223 (47 U.S.C. 223) is amended—

(1) by striking subsection (a) and inserting in lieu thereof:

“(a) Whoever—

“(1) in interstate or foreign communications—

“(A) by means of a telecommunications device know-  
ingly—

“(i) makes, creates, or solicits, and

“(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other  
communication which is obscene, lewd, lascivious, filthy,  
or indecent, with intent to annoy, abuse, threaten, or harass  
another person;

“(B) by means of a telecommunications device know-  
ingly—

“(i) makes, creates, or solicits, and

“(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other  
communication which is obscene or indecent, knowing that  
the recipient of the communication is under 18 years of  
age, regardless of whether the maker of such communica-  
tion placed the call or initiated the communication;

“(C) makes a telephone call or utilizes a telecommuni-  
cations device, whether or not conversation or communica-  
tion ensues, without disclosing his identity and with intent  
to annoy, abuse, threaten, or harass any person at the  
called number or who receives the communications;

“(D) makes or causes the telephone of another repeat-  
edly or continuously to ring, with intent to harass any  
person at the called number; or

“(E) makes repeated telephone calls or repeatedly initi-  
ates communication with a telecommunications device, dur-  
ing which conversation or communication ensues, solely  
to harass any person at the called number or who receives  
the communication; or

“(2) knowingly permits any telecommunications facility  
under his control to be used for any activity prohibited by  
paragraph (1) with the intent that it be used for such activity,  
shall be fined under title 18, United States Code, or imprisoned  
not more than two years, or both.”; and

(2) by adding at the end the following new subsections:

“(d) Whoever—

“(1) in interstate or foreign communications knowingly—



“(A) uses an interactive computer service to send to a specific person or persons under 18 years of age, or

“(B) uses any interactive computer service to display in a manner available to a person under 18 years of age, any comment, request, suggestion, proposal, image, or other communication that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, regardless of whether the user of such service placed the call or initiated the communication; or

“(2) knowingly permits any telecommunications facility under such person’s control to be used for an activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined under title 18, United States Code, or imprisoned not more than two years, or both.

“(e) In addition to any other defenses available by law:

“(1) No person shall be held to have violated subsection (a) or (d) solely for providing access or connection to or from a facility, system, or network not under that person’s control, including transmission, downloading, intermediate storage, access software, or other related capabilities that are incidental to providing such access or connection that does not include the creation of the content of the communication.

“(2) The defenses provided by paragraph (1) of this subsection shall not be applicable to a person who is a conspirator with an entity actively involved in the creation or knowing distribution of communications that violate this section, or who knowingly advertises the availability of such communications.

“(3) The defenses provided in paragraph (1) of this subsection shall not be applicable to a person who provides access or connection to a facility, system, or network engaged in the violation of this section that is owned or controlled by such person.

“(4) No employer shall be held liable under this section for the actions of an employee or agent unless the employee’s or agent’s conduct is within the scope of his or her employment or agency and the employer (A) having knowledge of such conduct, authorizes or ratifies such conduct, or (B) recklessly disregards such conduct.

“(5) It is a defense to a prosecution under subsection (a)(1)(B) or (d), or under subsection (a)(2) with respect to the use of a facility for an activity under subsection (a)(1)(B) that a person—

“(A) has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by minors to a communication specified in such subsections, which may involve any appropriate measures to restrict minors from such communications, including any method which is feasible under available technology; or

“(B) has restricted access to such communication by requiring use of a verified credit card, debit account, adult access code, or adult personal identification number.

“(6) The Commission may describe measures which are reasonable, effective, and appropriate to restrict access to prohibited communications under subsection (d). Nothing in

this section authorizes the Commission to enforce, or is intended to provide the Commission with the authority to approve, sanction, or permit, the use of such measures. The Commission shall have no enforcement authority over the failure to utilize such measures. The Commission shall not endorse specific products relating to such measures. The use of such measures shall be admitted as evidence of good faith efforts for purposes of paragraph (5) in any action arising under subsection (d). Nothing in this section shall be construed to treat interactive computer services as common carriers or telecommunications carriers.

“(f)(1) No cause of action may be brought in any court or administrative agency against any person on account of any activity that is not in violation of any law punishable by criminal or civil penalty, and that the person has taken in good faith to implement a defense authorized under this section or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

“(2) No State or local government may impose any liability for commercial activities or actions by commercial entities, nonprofit libraries, or institutions of higher education in connection with an activity or action described in subsection (a)(2) or (d) that is inconsistent with the treatment of those activities or actions under this section: *Provided, however,* That nothing herein shall preclude any State or local government from enacting and enforcing complementary oversight, liability, and regulatory systems, procedures, and requirements, so long as such systems, procedures, and requirements govern only intrastate services and do not result in the imposition of inconsistent rights, duties or obligations on the provision of interstate services. Nothing in this subsection shall preclude any State or local government from governing conduct not covered by this section.

“(g) Nothing in subsection (a), (d), (e), or (f) or in the defenses to prosecution under subsection (a) or (d) shall be construed to affect or limit the application or enforcement of any other Federal law.

“(h) For purposes of this section—

“(1) The use of the term ‘telecommunications device’ in this section—

“(A) shall not impose new obligations on broadcasting station licensees and cable operators covered by obscenity and indecency provisions elsewhere in this Act; and

“(B) does not include an interactive computer service.

“(2) The term ‘interactive computer service’ has the meaning provided in section 230(e)(2).

“(3) The term ‘access software’ means software (including client or server software) or enabling tools that do not create or provide the content of the communication but that allow a user to do any one or more of the following:

“(A) filter, screen, allow, or disallow content;

“(B) pick, choose, analyze, or digest content; or

“(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

“(4) The term ‘institution of higher education’ has the meaning provided in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141).

“(5) The term ‘library’ means a library eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 355e et seq.).”.

**SEC. 503. OBSCENE PROGRAMMING ON CABLE TELEVISION.**

Section 639 (47 U.S.C. 559) is amended by striking “not more than \$10,000” and inserting “under title 18, United States Code,”.

**SEC. 504. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.**

Part IV of title VI (47 U.S.C. 551 et seq.) is amended by adding at the end the following:

SC 560.

**“SEC. 640. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.**

“(a) **SUBSCRIBER REQUEST.**—Upon request by a cable service subscriber, a cable operator shall, without charge, fully scramble or otherwise fully block the audio and video programming of each channel carrying such programming so that one not a subscriber does not receive it.

“(b) **DEFINITION.**—As used in this section, the term ‘scramble’ means to rearrange the content of the signal of the programming so that the programming cannot be viewed or heard in an understandable manner.”.

**SEC. 505. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.**

(a) **REQUIREMENT.**—Part IV of title VI (47 U.S.C. 551 et seq.), as amended by this Act, is further amended by adding at the end the following:

SC 561.

**“SEC. 641. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.**

“(a) **REQUIREMENT.**—In providing sexually explicit adult programming or other programming that is indecent on any channel of its service primarily dedicated to sexually-oriented programming, a multichannel video programming distributor shall fully scramble or otherwise fully block the video and audio portion of such channel so that one not a subscriber to such channel or programming does not receive it.

dren and  
h.

“(b) **IMPLEMENTATION.**—Until a multichannel video programming distributor complies with the requirement set forth in subsection (a), the distributor shall limit the access of children to the programming referred to in that subsection by not providing such programming during the hours of the day (as determined by the Commission) when a significant number of children are likely to view it.

“(c) **DEFINITION.**—As used in this section, the term ‘scramble’ means to rearrange the content of the signal of the programming so that the programming cannot be viewed or heard in an understandable manner.”.

SC 561 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

**SEC. 506. CABLE OPERATOR REFUSAL TO CARRY CERTAIN PROGRAMS.**

(a) **PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNELS.**—Section 611(e) (47 U.S.C. 531(e)) is amended by inserting before the period the following: “, except a cable operator may refuse to transmit any public access program or portion of a public access program which contains obscenity, indecency, or nudity”.

(b) **CABLE CHANNELS FOR COMMERCIAL USE.**—Section 612(c)(2) (47 U.S.C. 532(c)(2)) is amended by striking “an operator” and inserting “a cable operator may refuse to transmit any leased access program or portion of a leased access program which contains obscenity, indecency, or nudity and”.

**SEC. 507. CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE MATERIALS THROUGH THE USE OF COMPUTERS.**

(a) **IMPORTATION OR TRANSPORTATION.**—Section 1462 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph, by inserting “or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934)” after “carrier”; and

(2) in the second undesignated paragraph—

(A) by inserting “or receives,” after “takes”;

(B) by inserting “or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934)” after “common carrier”; and

(C) by inserting “or importation” after “carriage”.

(b) **TRANSPORTATION FOR PURPOSES OF SALE OR DISTRIBUTION.**—The first undesignated paragraph of section 1465 of title 18, United States Code, is amended—

(1) by striking “transports in” and inserting “transports or travels in, or uses a facility or means of,”;

(2) by inserting “or an interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934) in or affecting such commerce” after “foreign commerce” the first place it appears;

(3) by striking “, or knowingly travels in” and all that follows through “obscene material in interstate or foreign commerce,” and inserting “of”.

(c) **INTERPRETATION.**—The amendments made by this section are clarifying and shall not be interpreted to limit or repeal any prohibition contained in sections 1462 and 1465 of title 18, United States Code, before such amendment, under the rule established in *United States v. Alpers*, 338 U.S. 680 (1950).

18 USC 1462  
note.

**SEC. 508. COERCION AND ENTICEMENT OF MINORS.**

Section 2422 of title 18, United States Code, is amended—

(1) by inserting “(a)” before “Whoever knowingly”; and

(2) by adding at the end the following:

“(b) Whoever, using any facility or means of interstate or foreign commerce, including the mail, or within the special maritime and territorial jurisdiction of the United States, knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years to engage in prostitution or any sexual act for which any person may be criminally prosecuted, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both.”.

**SEC. 509. ONLINE FAMILY EMPOWERMENT.**

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

**“SEC. 230. PROTECTION FOR PRIVATE BLOCKING AND SCREENING OF OFFENSIVE MATERIAL.**

47 USC 230.

“(a) **FINDINGS.**—The Congress finds the following:

“(1) The rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens.

“(2) These services offer users a great degree of control over the information that they receive, as well as the potential for even greater control in the future as technology develops.

“(3) The Internet and other interactive computer services offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity.

“(4) The Internet and other interactive computer services have flourished, to the benefit of all Americans, with a minimum of government regulation.

“(5) Increasingly Americans are relying on interactive media for a variety of political, educational, cultural, and entertainment services.

“(b) POLICY.—It is the policy of the United States—

“(1) to promote the continued development of the Internet and other interactive computer services and other interactive media;

“(2) to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation;

“(3) to encourage the development of technologies which maximize user control over what information is received by individuals, families, and schools who use the Internet and other interactive computer services;

“(4) to remove disincentives for the development and utilization of blocking and filtering technologies that empower parents to restrict their children's access to objectionable or inappropriate online material; and

“(5) to ensure vigorous enforcement of Federal criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by means of computer.

“(c) PROTECTION FOR ‘GOOD SAMARITAN’ BLOCKING AND SCREENING OF OFFENSIVE MATERIAL.—

“(1) TREATMENT OF PUBLISHER OR SPEAKER.—No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

“(2) CIVIL LIABILITY.—No provider or user of an interactive computer service shall be held liable on account of—

“(A) any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or

“(B) any action taken to enable or make available to information content providers or others the technical means to restrict access to material described in paragraph (1).

“(d) EFFECT ON OTHER LAWS.—

“(1) NO EFFECT ON CRIMINAL LAW.—Nothing in this section shall be construed to impair the enforcement of section 223 of this Act, chapter 71 (relating to obscenity) or 110 (relating

to sexual exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

“(2) NO EFFECT ON INTELLECTUAL PROPERTY LAW.—Nothing in this section shall be construed to limit or expand any law pertaining to intellectual property.

“(3) STATE LAW.—Nothing in this section shall be construed to prevent any State from enforcing any State law that is consistent with this section. No cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section.

“(4) NO EFFECT ON COMMUNICATIONS PRIVACY LAW.—Nothing in this section shall be construed to limit the application of the Electronic Communications Privacy Act of 1986 or any of the amendments made by such Act, or any similar State law.

“(e) DEFINITIONS.—As used in this section:

“(1) INTERNET.—The term ‘Internet’ means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

“(2) INTERACTIVE COMPUTER SERVICE.—The term ‘interactive computer service’ means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

“(3) INFORMATION CONTENT PROVIDER.—The term ‘information content provider’ means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service.

“(4) ACCESS SOFTWARE PROVIDER.—The term ‘access software provider’ means a provider of software (including client or server software), or enabling tools that do any one or more of the following:

- “(A) filter, screen, allow, or disallow content;
- “(B) pick, choose, analyze, or digest content; or
- “(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.”.

## Subtitle B—Violence

### SEC. 551. PARENTAL CHOICE IN TELEVISION PROGRAMMING.

(a) FINDINGS.—The Congress makes the following findings:

(1) Television influences children’s perception of the values and behavior that are common and acceptable in society.

(2) Television station operators, cable television system operators, and video programmers should follow practices in connection with video programming that take into consideration that television broadcast and cable programming has established a uniquely pervasive presence in the lives of American children.

(3) The average American child is exposed to 25 hours of television each week and some children are exposed to as much as 11 hours of television a day.

47 USC 303 note.

(4) Studies have shown that children exposed to violent video programming at a young age have a higher tendency for violent and aggressive behavior later in life than children not so exposed, and that children exposed to violent video programming are prone to assume that acts of violence are acceptable behavior.

(5) Children in the United States are, on average, exposed to an estimated 8,000 murders and 100,000 acts of violence on television by the time the child completes elementary school.

(6) Studies indicate that children are affected by the pervasiveness and casual treatment of sexual material on television, eroding the ability of parents to develop responsible attitudes and behavior in their children.

(7) Parents express grave concern over violent and sexual video programming and strongly support technology that would give them greater control to block video programming in the home that they consider harmful to their children.

(8) There is a compelling governmental interest in empowering parents to limit the negative influences of video programming that is harmful to children.

(9) Providing parents with timely information about the nature of upcoming video programming and with the technological tools that allow them easily to block violent, sexual, or other programming that they believe harmful to their children is a nonintrusive and narrowly tailored means of achieving that compelling governmental interest.

(b) ESTABLISHMENT OF TELEVISION RATING CODE.—

(1) AMENDMENT.—Section 303 (47 U.S.C. 303) is amended by adding at the end the following:

“(w) Prescribe—

“(1) on the basis of recommendations from an advisory committee established by the Commission in accordance with section 551(b)(2) of the Telecommunications Act of 1996, guidelines and recommended procedures for the identification and rating of video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children: *Provided*, That nothing in this paragraph shall be construed to authorize any rating of video programming on the basis of its political or religious content; and

“(2) with respect to any video programming that has been rated, and in consultation with the television industry, rules requiring distributors of such video programming to transmit such rating to permit parents to block the display of video programming that they have determined is inappropriate for their children.”.

47 USC 303 note.

(2) ADVISORY COMMITTEE REQUIREMENTS.—In establishing an advisory committee for purposes of the amendment made by paragraph (1) of this subsection, the Commission shall—

(A) ensure that such committee is composed of parents, television broadcasters, television programming producers, cable operators, appropriate public interest groups, and other interested individuals from the private sector and is fairly balanced in terms of political affiliation, the points of view represented, and the functions to be performed by the committee;

(B) provide to the committee such staff and resources as may be necessary to permit it to perform its functions efficiently and promptly; and

(C) require the committee to submit a final report of its recommendations within one year after the date of the appointment of the initial members.

Reports.

(c) REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.—Section 303 (47 U.S.C. 303), as amended by subsection (a), is further amended by adding at the end the following:

“(x) Require, in the case of an apparatus designed to receive television signals that are shipped in interstate commerce or manufactured in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus be equipped with a feature designed to enable viewers to block display of all programs with a common rating, except as otherwise permitted by regulations pursuant to section 330(c)(4).”

(d) SHIPPING OF TELEVISIONS THAT BLOCK PROGRAMS.—

(1) REGULATIONS.—Section 330 (47 U.S.C. 330) is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by adding after subsection (b) the following new subsection (c):

“(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce or manufacture in the United States any apparatus described in section 303(x) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

“(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading in it.

“(3) The rules prescribed by the Commission under this subsection shall provide for the oversight by the Commission of the adoption of standards by industry for blocking technology. Such rules shall require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and blocking specifications established by industry under the supervision of the Commission.

“(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers. If the Commission determines that an alternative blocking technology exists that—

“(A) enables parents to block programming based on identifying programs without ratings,

“(B) is available to consumers at a cost which is comparable to the cost of technology that allows parents to block programming based on common ratings, and

“(C) will allow parents to block a broad range of programs on a multichannel system as effectively and as easily as technology that allows parents to block programming based on common ratings,

the Commission shall amend the rules prescribed pursuant to section 303(x) to require that the apparatus described in such section be equipped with either the blocking technology described in such



section or the alternative blocking technology described in this paragraph.”.

USC 330.

(2) **CONFORMING AMENDMENT.**—Section 330(d), as redesignated by subsection (d)(1)(A), is amended by striking “section 303(s), and section 303(u)” and inserting in lieu thereof “and sections 303(s), 303(u), and 303(x)”.

USC 303 note.

(e) **APPLICABILITY AND EFFECTIVE DATES.**—

(1) **APPLICABILITY OF RATING PROVISION.**—The amendment made by subsection (b) of this section shall take effect 1 year after the date of enactment of this Act, but only if the Commission determines, in consultation with appropriate public interest groups and interested individuals from the private sector, that distributors of video programming have not, by such date—

(A) established voluntary rules for rating video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, and such rules are acceptable to the Commission; and

(B) agreed voluntarily to broadcast signals that contain ratings of such programming.

(2) **EFFECTIVE DATE OF MANUFACTURING PROVISION.**—In prescribing regulations to implement the amendment made by subsection (c), the Federal Communications Commission shall, after consultation with the television manufacturing industry, specify the effective date for the applicability of the requirement to the apparatus covered by such amendment, which date shall not be less than two years after the date of enactment of this Act.

7 USC 303 note.

#### **SEC. 552. TECHNOLOGY FUND.**

It is the policy of the United States to encourage broadcast television, cable, satellite, syndication, other video programming distributors, and relevant related industries (in consultation with appropriate public interest groups and interested individuals from the private sector) to—

(1) establish a technology fund to encourage television and electronics equipment manufacturers to facilitate the development of technology which would empower parents to block programming they deem inappropriate for their children and to encourage the availability thereof to low income parents;

(2) report to the viewing public on the status of the development of affordable, easy to use blocking technology; and

(3) establish and promote effective procedures, standards, systems, advisories, or other mechanisms for ensuring that users have easy and complete access to the information necessary to effectively utilize blocking technology and to encourage the availability thereof to low income parents.

## **Subtitle C—Judicial Review**

7 USC 223 note.

#### **SEC. 561. EXPEDITED REVIEW.**

(a) **THREE-JUDGE DISTRICT COURT HEARING.**—Notwithstanding any other provision of law, any civil action challenging the constitutionality, on its face, of this title or any amendment made by this title, or any provision thereof, shall be heard by a district

court of 3 judges convened pursuant to the provisions of section 2284 of title 28, United States Code.

(b) APPELLATE REVIEW.—Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of 3 judges in an action under subsection (a) holding this title or an amendment made by this title, or any provision thereof, unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court. Any such appeal shall be filed not more than 20 days after entry of such judgment, decree, or order.

## TITLE VI—EFFECT ON OTHER LAWS

47 USC 152 note.

### SEC. 601. APPLICABILITY OF CONSENT DECREES AND OTHER LAW.

#### (a) APPLICABILITY OF AMENDMENTS TO FUTURE CONDUCT.—

(1) AT&T CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the AT&T Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

(2) GTE CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the GTE Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

(3) MCCAW CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the McCaw Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and subsection (d) of this section and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

#### (b) ANTITRUST LAWS.—

(1) SAVINGS CLAUSE.—Except as provided in paragraphs (2) and (3), nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

(2) REPEAL.—Subsection (a) of section 221 (47 U.S.C. 221(a)) is repealed.

(3) CLAYTON ACT.—Section 7 of the Clayton Act (15 U.S.C. 18) is amended in the last paragraph by striking “Federal Communications Commission,”.

#### (c) FEDERAL, STATE, AND LOCAL LAW.—

(1) NO IMPLIED EFFECT.—This Act and the amendments made by this Act shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such Act or amendments.

(2) STATE TAX SAVINGS PROVISION.—Notwithstanding paragraph (1), nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or supersession of, any State or local law pertaining to taxation, except as provided

in sections 622 and 653(c) of the Communications Act of 1934 and section 602 of this Act.

(d) **COMMERCIAL MOBILE SERVICE JOINT MARKETING.**—Notwithstanding section 22.903 of the Commission's regulations (47 C.F.R. 22.903) or any other Commission regulation, a Bell operating company or any other company may, except as provided in sections 271(e)(1) and 272 of the Communications Act of 1934 as amended by this Act as they relate to wireline service, jointly market and sell commercial mobile services in conjunction with telephone exchange service, exchange access, intraLATA telecommunications service, interLATA telecommunications service, and information services.

(e) **DEFINITIONS.**—As used in this section:

(1) **AT&T CONSENT DECREE.**—The term “AT&T Consent Decree” means the order entered August 24, 1982, in the antitrust action styled *United States v. Western Electric*, Civil Action No. 82-0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

(2) **GTE CONSENT DECREE.**—The term “GTE Consent Decree” means the order entered December 21, 1984, as restated January 11, 1985, in the action styled *United States v. GTE Corp.*, Civil Action No. 83-1298, in the United States District Court for the District of Columbia, and any judgment or order with respect to such action entered on or after December 21, 1984.

(3) **MCCAW CONSENT DECREE.**—The term “McCaw Consent Decree” means the proposed consent decree filed on July 15, 1994, in the antitrust action styled *United States v. AT&T Corp. and McCaw Cellular Communications, Inc.*, Civil Action No. 94-01555, in the United States District Court for the District of Columbia. Such term includes any stipulation that the parties will abide by the terms of such proposed consent decree until it is entered and any order entering such proposed consent decree.

(4) **ANTITRUST LAWS.**—The term “antitrust laws” has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly known as the Robinson-Patman Act, and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

#### **SEC. 602. PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DIRECT-TO-HOME SERVICES.**

(a) **PREEMPTION.**—A provider of direct-to-home satellite service shall be exempt from the collection or remittance, or both, of any tax or fee imposed by any local taxing jurisdiction on direct-to-home satellite service.

(b) **DEFINITIONS.**—For the purposes of this section—

(1) **DIRECT-TO-HOME SATELLITE SERVICE.**—The term “direct-to-home satellite service” means only programming transmitted or broadcast by satellite directly to the subscribers' premises without the use of ground receiving or distribution equipment,

except at the subscribers' premises or in the uplink process to the satellite.

(2) PROVIDER OF DIRECT-TO-HOME SATELLITE SERVICE.—For purposes of this section, a “provider of direct-to-home satellite service” means a person who transmits, broadcasts, sells, or distributes direct-to-home satellite service.

(3) LOCAL TAXING JURISDICTION.—The term “local taxing jurisdiction” means any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other local jurisdiction in the territorial jurisdiction of the United States with the authority to impose a tax or fee, but does not include a State.

(4) STATE.—The term “State” means any of the several States, the District of Columbia, or any territory or possession of the United States.

(5) TAX OR FEE.—The terms “tax” and “fee” mean any local sales tax, local use tax, local intangible tax, local income tax, business license tax, utility tax, privilege tax, gross receipts tax, excise tax, franchise fees, local telecommunications tax, or any other tax, license, or fee that is imposed for the privilege of doing business, regulating, or raising revenue for a local taxing jurisdiction.

(c) PRESERVATION OF STATE AUTHORITY.—This section shall not be construed to prevent taxation of a provider of direct-to-home satellite service by a State or to prevent a local taxing jurisdiction from receiving revenue derived from a tax or fee imposed and collected by a State.

## **TITLE VII—MISCELLANEOUS PROVISIONS**

### **SEC. 701. PREVENTION OF UNFAIR BILLING PRACTICES FOR INFORMATION OR SERVICES PROVIDED OVER TOLL-FREE TELEPHONE CALLS.**

(a) PREVENTION OF UNFAIR BILLING PRACTICES.—

(1) IN GENERAL.—Section 228(c) (47 U.S.C. 228(c)) is amended—

(A) by striking out subparagraph (C) of paragraph (7) and inserting in lieu thereof the following:

“(C) the calling party being charged for information conveyed during the call unless—

“(i) the calling party has a written agreement (including an agreement transmitted through electronic medium) that meets the requirements of paragraph (8); or

“(ii) the calling party is charged for the information in accordance with paragraph (9); or”;

(B)(i) by striking “or” at the end of subparagraph (C) of such paragraph;

(ii) by striking the period at the end of subparagraph (D) of such paragraph and inserting a semicolon and “or”; and

(iii) by adding at the end thereof the following:

“(E) the calling party being assessed, by virtue of being asked to connect or otherwise transfer to a pay-per-call service, a charge for the call.”; and

(C) by adding at the end the following new paragraphs:  
 “(8) SUBSCRIPTION AGREEMENTS FOR BILLING FOR INFORMATION PROVIDED VIA TOLL-FREE CALLS.—

“(A) IN GENERAL.—For purposes of paragraph (7)(C)(i), a written subscription does not meet the requirements of this paragraph unless the agreement specifies the material terms and conditions under which the information is offered and includes—

“(i) the rate at which charges are assessed for the information;

“(ii) the information provider’s name;

“(iii) the information provider’s business address;

“(iv) the information provider’s regular business telephone number;

“(v) the information provider’s agreement to notify the subscriber at least one billing cycle in advance of all future changes in the rates charged for the information; and

“(vi) the subscriber’s choice of payment method, which may be by direct remit, debit, prepaid account, phone bill, or credit or calling card.

“(B) BILLING ARRANGEMENTS.—If a subscriber elects, pursuant to subparagraph (A)(vi), to pay by means of a phone bill—

“(i) the agreement shall clearly explain that the subscriber will be assessed for calls made to the information service from the subscriber’s phone line;

“(ii) the phone bill shall include, in prominent type, the following disclaimer:

‘Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services.’; and

“(iii) the phone bill shall clearly list the 800 number dialed.

“(C) USE OF PINS TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it—

“(i) includes a unique personal identification number or other subscriber-specific identifier and requires a subscriber to use this number or identifier to obtain access to the information provided and includes instructions on its use; and

“(ii) assures that any charges for services accessed by use of the subscriber’s personal identification number or subscriber-specific identifier be assessed to subscriber’s source of payment elected pursuant to subparagraph (A)(vi).

“(D) EXCEPTIONS.—Notwithstanding paragraph (7)(C), a written agreement that meets the requirements of this paragraph is not required—

“(i) for calls utilizing telecommunications devices for the deaf;

“(ii) for directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate; or

“(iii) for any purchase of goods or of services that are not information services.

“(E) **TERMINATION OF SERVICE.**—On receipt by a common carrier of a complaint by any person that an information provider is in violation of the provisions of this section, a carrier shall—

“(i) promptly investigate the complaint; and

“(ii) if the carrier reasonably determines that the complaint is valid, it may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this section.

“(F) **TREATMENT OF REMEDIES.**—The remedies provided in this paragraph are in addition to any other remedies that are available under title V of this Act.

“(9) **CHARGES BY CREDIT, PREPAID, DEBIT, CHARGE, OR CALLING CARD IN ABSENCE OF AGREEMENT.**—For purposes of paragraph (7)(C)(ii), a calling party is not charged in accordance with this paragraph unless the calling party is charged by means of a credit, prepaid, debit, charge, or calling card and the information service provider includes in response to each call an introductory disclosure message that—

“(A) clearly states that there is a charge for the call;

“(B) clearly states the service’s total cost per minute and any other fees for the service or for any service to which the caller may be transferred;

“(C) explains that the charges must be billed on either a credit, prepaid, debit, charge, or calling card;

“(D) asks the caller for the card number;

“(E) clearly states that charges for the call begin at the end of the introductory message; and

“(F) clearly states that the caller can hang up at or before the end of the introductory message without incurring any charge whatsoever.

“(10) **BYPASS OF INTRODUCTORY DISCLOSURE MESSAGE.**—The requirements of paragraph (9) shall not apply to calls from repeat callers using a bypass mechanism to avoid listening to the introductory message: *Provided*, That information providers shall disable such a bypass mechanism after the institution of any price increase and for a period of time determined to be sufficient by the Federal Trade Commission to give callers adequate and sufficient notice of a price increase.

“(11) **DEFINITION OF CALLING CARD.**—As used in this subsection, the term ‘calling card’ means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates.”.

(2) **REGULATIONS.**—The Federal Communications Commission shall revise its regulations to comply with the amendment made by paragraph (1) not later than 180 days after the date of enactment of this Act.

47 USC 228 note.

(3) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall take effect on the date of enactment of this Act.  
(b) **CLARIFICATION OF “PAY-PER-CALL SERVICES”.**—

47 USC 228 note.

(1) **TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT.**—Section 204(1) of the Telephone Disclosure and Dispute Resolution Act (15 U.S.C. 5714(1)) is amended to read as follows:

“(1) The term ‘pay-per-call services’ has the meaning provided in section 228(i) of the Communications Act of 1934, except that the Commission by rule may, notwithstanding subparagraphs (B) and (C) of section 228(i)(1) of such Act, extend such definition to other similar services providing audio information or audio entertainment if the Commission determines that such services are susceptible to the unfair and deceptive practices that are prohibited by the rules prescribed pursuant to section 201(a).”.

(2) COMMUNICATIONS ACT.—Section 228(i)(2) (47 U.S.C. 228(i)(2)) is amended by striking “or any service the charge for which is tarified,”.

**SEC. 702. PRIVACY OF CUSTOMER INFORMATION.**

Title II is amended by inserting after section 221 (47 U.S.C. 221) the following new section:

SEC 222.

**“SEC. 222. PRIVACY OF CUSTOMER INFORMATION.**

“(a) IN GENERAL.—Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.

“(b) CONFIDENTIALITY OF CARRIER INFORMATION.—A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

“(c) CONFIDENTIALITY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.—

“(1) PRIVACY REQUIREMENTS FOR TELECOMMUNICATIONS CARRIERS.—Except as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.

“(2) DISCLOSURE ON REQUEST BY CUSTOMERS.—A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.

“(3) AGGREGATE CUSTOMER INFORMATION.—A telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service may use, disclose, or permit access to aggregate customer information other than for the purposes described in paragraph (1). A local exchange carrier may use, disclose, or permit access to aggregate customer information other than for purposes described in paragraph (1) only if it provides such aggregate information to other carriers or persons on reasonable and nondiscriminatory terms and conditions upon reasonable request therefor.

“(d) EXCEPTIONS.—Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents—

“(1) to initiate, render, bill, and collect for telecommunications services;

“(2) to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; or

“(3) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by the customer and the customer approves of the use of such information to provide such service.

“(e) SUBSCRIBER LIST INFORMATION.—Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

“(f) DEFINITIONS.—As used in this section:

“(1) CUSTOMER PROPRIETARY NETWORK INFORMATION.—The term ‘customer proprietary network information’ means—

“(A) information that relates to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and

“(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier;

except that such term does not include subscriber list information.

“(2) AGGREGATE INFORMATION.—The term ‘aggregate customer information’ means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.

“(3) SUBSCRIBER LIST INFORMATION.—The term ‘subscriber list information’ means any information—

“(A) identifying the listed names of subscribers of a carrier and such subscribers’ telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

“(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.”.

#### SEC. 703. POLE ATTACHMENTS.

Section 224 (47 U.S.C. 224) is amended—

(1) in subsection (a)(1), by striking the first sentence and inserting the following: “The term ‘utility’ means any person who is a local exchange carrier or an electric, gas, water,



steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications.”;

(2) in subsection (a)(4), by inserting after “system” the following: “or provider of telecommunications service”;

(3) by inserting after subsection (a)(4) the following:

“(5) For purposes of this section, the term ‘telecommunications carrier’ (as defined in section 3 of this Act) does not include any incumbent local exchange carrier as defined in section 251(h).”;

(4) by inserting after “conditions” in subsection (c)(1) a comma and the following: “or access to poles, ducts, conduits, and rights-of-way as provided in subsection (f).”;

(5) in subsection (c)(2)(B), by striking “cable television services” and inserting “the services offered via such attachments”;

(6) by inserting after subsection (d)(2) the following:

“(3) This subsection shall apply to the rate for any pole attachment used by a cable television system solely to provide cable service. Until the effective date of the regulations required under subsection (e), this subsection shall also apply to the rate for any pole attachment used by a cable system or any telecommunications carrier (to the extent such carrier is not a party to a pole attachment agreement) to provide any telecommunications service.”; and

(7) by adding at the end thereof the following:

“(e)(1) The Commission shall, no later than 2 years after the date of enactment of the Telecommunications Act of 1996, prescribe regulations in accordance with this subsection to govern the charges for pole attachments used by telecommunications carriers to provide telecommunications services, when the parties fail to resolve a dispute over such charges. Such regulations shall ensure that a utility charges just, reasonable, and nondiscriminatory rates for pole attachments.

“(2) A utility shall apportion the cost of providing space on a pole, duct, conduit, or right-of-way other than the usable space among entities so that such apportionment equals two-thirds of the costs of providing space other than the usable space that would be allocated to such entity under an equal apportionment of such costs among all attaching entities.

“(3) A utility shall apportion the cost of providing usable space among all entities according to the percentage of usable space required for each entity.

“(4) The regulations required under paragraph (1) shall become effective 5 years after the date of enactment of the Telecommunications Act of 1996. Any increase in the rates for pole attachments that result from the adoption of the regulations required by this subsection shall be phased in equal annual increments over a period of 5 years beginning on the effective date of such regulations.

“(f)(1) A utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.

“(2) Notwithstanding paragraph (1), a utility providing electric service may deny a cable television system or any telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes.